



## Making Least Restrictive Environment Placement Decisions for Preschool Children, Ages 3 through 5

This guidance document is designed to assist Individual Education Program (IEP) teams in understanding early childhood educational environments and their relationship to appropriate Least Restrictive Environment (LRE) decisions for preschoolers with disabilities.

The LRE determination should be made *after* the IEP team has identified the strengths, unique needs of the child and the goals, supports and services required to make progress in appropriate activities and routines. IDEA states a strong preference for educating children with disabilities in regular classes alongside their peers without disabilities. In early childhood, the term “regular class” includes a preschool setting with typically developing children. Administrative Units (AUs) in Colorado are responsible for providing a Free and Appropriate Public Education (FAPE) to a preschool child with a disability and must ensure that FAPE is provided in the LRE where the child’s unique needs (as described in the child’s IEP) can be met.

A “regular early childhood program” is used for reporting purposes and is defined by the Office of Special Education Programs (OSEP) to be a *classroom* that includes at least 50 percent of children who do not have an IEP. This includes Head Start programs, preschool classes offered by the public school system, private preschools and other group early care and education settings in the community. The IEP team determines the educational environment appropriate for the child and placement options based on the considerations below.

The following considerations and discussion points are expected to guide IEP team conversations, as appropriate, when determining the LRE where the child will receive special education services. These are based on the information in [OSEP’s Dear Colleague Letter](#) (January, 2017).

### **Where has the child been spending time during the week prior to and during the special education identification process? Consider:**

- If the child is already attending a regular class with typically developing peers.
- In the IEP team’s discussion of whether, or not, the early care and education setting where the child has been spending time fits the definition of regular early childhood program.
- How the existing program’s curricular framework adheres to Colorado’s early learning standards.
- How other factors may affect opportunities for the family and child to access the educational environment (the spoken language at home is other than English, the family is experiencing low-income marginalization, etc.).

### *FAPE and LRE*

#### ***Free and Appropriate Public Education is defined in 300.17 as:***

Special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the SEA, including the requirements of this part; include an appropriate preschool, elementary school, or secondary school education in the State involved; and are provided in conformity with an IEP that meets the requirements of 300.320 through 300.324.”

#### ***Least Restrictive Environment is defined as:***

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and Special classes, separate schooling, or other removal of children from the general educational environment occurs only if the nature or severity of the disability is such that education in general educational classes with the use of supplementary aids and services cannot be achieved satisfactorily {300.114 (a) (2) (i) (ii)}



## Making Least Restrictive Environment Placement Decisions for Preschool Children

- That informal settings (this includes weekly school based or neighborhood playgroups, or home settings) are not considered a Regular Early Childhood Program for reporting purposes by OSEP because they are generally not required to comply with a State's early learning programs standards or curricula.

### ***If the child is enrolled in a regular early childhood program, what structures and accountability are in place or could be put in place to ensure the child makes progress in appropriate activities (general curriculum)? Consider:***

- How the child accesses the learning environment, how home language is supported, and how they engage with peers and adults during appropriate activities and routines.
- Whether differentiation of activities occurs regularly for every child.
- Whether or not the child has friends in the current setting and if the family has made connections with other families in the program.

### ***What are any challenges of the current setting? Consider:***

- Any barriers to the child's ability to access the appropriate activities and to engage with others which can include communication needs, physical accessibility, and social emotional wellbeing.
- Whether the adults in the current setting are skilled in how to meet the child's needs or can be supported to gain the required skills needed.
- Any adjustments to the child's schedule that have been made or if additional adults are needed to support the needs of the child.
- That continuity of care benefits children when there is a need for extended childcare beyond the typical preschool hours. If this cannot be accomplished, consider whether there is a need for transportation if the child will be transitioning daily between two separate early childhood programs to address the educational needs identified in the IEP.

### ***If the child is already attending a regular early childhood program, can the IEP be implemented in that setting?***

#### ***Consider:***

- The importance of peer modeling.
- The routines within the classroom where specific skills and goals can be addressed.
- How specialized instruction and related services would be provided inside the classroom by the AU. Address the possible advantages and disadvantages for the majority of the services being provided inside the classroom, or outside of the classroom, and why removal from the regular early childhood program is necessary if services will take place outside the classroom.
- Whether there is an opportunity to support effective collaboration between general and special educators.
- The importance of culturally responsive practices and partnerships with families.
- How progress will be monitored, and Preschool Outcomes data will be reported.

### ***How does the IEP team determine the number of hours of general education needed (at least 10 hours or less than 10 hours)? Consider:***

- The number of hours that are being offered by the district to the child's same aged peers.
- Whether at least 10 hours per week is appropriate based on the child's unique needs (medical, scheduled appointments, etc.) and, if fewer hours are appropriate, consider how the transition to 10 hours will occur.

The [ESSU Guidance: FAPE for Preschool Special Education Students](#) (August 2023) serves to provide further detail on the reporting requirements from OSEP for Preschool Educational Environments along with setting codes and their definitions.

### ***How does the IEP team determine that services provided outside of the regular early childhood program is the appropriate placement? Consider:***

- If individualized and appropriate accommodations and modifications have been provided in the regular early childhood program and after a review of available data, the child has not made satisfactory progress.
- Any potential harmful effect on the child or on the quality of services needed by the child as a result of the placement.



## Making Least Restrictive Environment Placement Decisions for Preschool Children

- If an alternative placement would meet the unique needs of the child. An alternative placement would be where services occur in special classes, separate schooling or during any other removal from the regular early childhood program. These settings must only be selected if the nature or severity of the disability is such that education in the regular early childhood program, with the use of supplementary aids and services, cannot be achieved satisfactorily. Advantages and disadvantages or potential harmful effects on the child of the settings being considered must be discussed.
- The continuum of placements that must be made available to children with disabilities as determined individually by the IEP.

A decision tree and early childhood environment definitions can be found [Educational Environments December 1 Count Guidance](#) (March, 2020).

### ***In Summary:***

Locating available and appropriate regular early childhood programs all year long for preschool special education placements can be challenging. In addition, a program for a child who is 3 in the beginning of the year may or may not be appropriate for a child who turns 3 in late winter or early spring. *Placement options being considered must be made based on the unique needs of the child.* AUs must also assess different preschool programs' ability to provide supplementary aids and services while collaborating with special education and related services providers from the AU. It is important to consider family needs along with ensuring programming for children who are newly identified throughout the year is available. Outreach to programs in the community within the AU in addition to district administered preschool programs currently offered is essential in increasing options for families. If the placement team determines, based on the child's IEP, that placement in an inclusive private preschool program is necessary to provide FAPE to a child, the AU is responsible for making available an appropriate program in the LRE and ensuring that tuition costs associated with that placement for the period of time necessary to implement the IEP are at no cost to the parents.

There are instances where a family may choose to decline a preschool special education placement in the least restrictive environment made available by the AU. In Colorado, compulsory education is provided in grades 1 through 6, and excludes kindergarten and preschool programs. Families who choose a private or informal option for their child may do so and the AU is not required to provide services in a setting where the child's IEP needs cannot be met.

A valuable resource is the US Department of Education and the US Department of Health and Human Services [Policy Statement: Inclusion of Children with Disabilities in Early Childhood Programs \(Nov. 28, 2023\)](#) which states the expectation of inclusion in high-quality early childhood programs. All young children with disabilities should have access to high-quality inclusive early childhood programs that provide individualized and appropriate support so they can fully participate alongside their peers without disabilities, meet high expectations, and achieve their full potential.

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*This CDE guidance document is meant for clarification, is not legally binding, and is not to be confused with legal advice. This guidance reflects CDE's recommendations, but Administrative Units (AUs) may have developed their own policies or procedures that differ from those described herein. Be sure to refer to your local AU's policies and procedures through the Director of Special Education. If you are seeking legal advice, please contact your legal counsel.*

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